AUG 0 4 2006

TERMINAL DISCLAIMER TO OBVIATE A PROVISIONAL DOUBLE PATENTING REJECTION OVER A PENDING SECOND APPLICATION

In re Application of:

William John Gallagher

Application No.

10/706,516

Filed:

November 12, 2003

For:

DYNAMIC CODE GENERATION SYSTEM

The owner, <u>BEA Systems</u>, <u>Inc.</u>, of <u>100</u> percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 USC 154 to 156 and 173 as shortened by any terminal disclaimer filed prior to the grant of any patent granted on pending second Application Number <u>10/712,384</u>, filed on <u>November 12, 2003</u>, of any patent on the pending second application. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on the second application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 USC 154 to 156 and 173 of any patent granted on the second application, as shortened by any terminal disclaimer filed prior to the patent grant, in the event that any such granted patent: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims cancelled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

Check either box 1 or 2 below, if appropriate.

1. ___ For submissions on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the organization.

I hereby declare that all statements made herein of my knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ____ The undersigned is an atomey of record.

| August | _____ 2006 |
| Date |
| Type or printed name |
| _____ PTO suggested wording above was ____ unchanged ____ changed (if changed, an explanation should be supplied).

| O8/08/2006 SSESHE1 00000041 061325 10706516 |
| O1 FC:1814 | 130.00 DA |
| Date |
| Date |
| Date |
| Date |
| Title |
| Changed (if changed, an explanation should be supplied).

Automey Docket No.: BEAS-01316US2 pdurdik/beas/1316us2/1316us2.terminal.disclaimer.doc 262.002:062403